# MORE ABOUT THE HISTORICAL ERRORS OF JAMES FORD RHODES

In its issue of October, 1917, THE JOURNAL OF NEGRO HISTORY published an article of which I am the author, pointing out some of the historical errors made by Mr. Rhodes in his *History of the United States from the Compromise of 1850 to the Final Restoration of Home Rule at the South in 1877.*" Since it appears that Mr. Rhodes has no personal knowledge of the important historical events referred to, he sent a copy of the journal containing the article to a friend who was presumed to be better informed along those lines. Mr. Rhodes referred to him as an expert, with the request that he make a careful examination of the article and write a reply to the same, or perhaps to make such comments as would furnish Mr. Rhodes with the information desired. I have been favored, through a mutual friend, with a copy of that reply, which is now before me and to which I shall now proceed to make a reply.

In a labored effort to weaken the force of what I have written, this expert in his opening generalization made several observations which may be classed under three different heads: first, if the white men referred to by me were of such a high character, why should the acts accredited to them have been of such a low character? second, that I am influenced in what I write about that period by racial bias and the fact that I was an active participant in the events referred to; third, that what I write is based upon my own experience and memory, much of which is liable to be inaccurate through the treachery of memory, the same not being fortified by references to other historical works.

This expert says:

An obvious general comment on the article is that if the Reconstruction period throughout the South and in Mississippi in particular was engineered and controlled by men of such high char-

acter as Mr. Lynch records, why should the acts accredited to them have been of such a low character? It is not enough to say that there were "mistakes"; the measures were too numerous and systematic for this. It is to be noticed that Mr. Lynch does not attempt to controvert statements of events in Mississippi, with one or two exceptions to be considered below. To attempt to review the conclusions to which Mr. Lynch takes exception would involve a review of too great a mass of evidence. The web of Reconstruction is such a tangled one, that even if one has carefully considered a large part of the great bulk of primary material on the subject, generalizations on the period must still be accepted cautiously. This much may be said: Mr. Rhodes's conclusions are in harmony with those of the other trained historical students who have devoted time to a careful study of this period. Mr. Lynch's racial bias, the fact that he was an active participant in the events, and finally that his judgments are based on his own experiences and not on a closer study of a far wider field of material, make whatever he writes of value as source material, but at the same time mitigate against its value as an impartial opinion. This is especially evident from the fact that he makes no attempt either in the article or in his book to substantiate his statements by such references to his authorities as modern historiography demands. His authority is of course, himself and his recollections, and the recognition of the treachery of the memory is a first fundamental in historical work.

Referring to my contention that thousands of white men were identified with the Republican party during the Reconstruction period he further says:

A comparison of census and election statistics do not give support to this fact; and tho such figures are far from exact, they give a basis for generalizing superior to that of any personal recollection, or, indeed, of anything short of a general agreement of contemporary statements to the contrary. No such agreement exists so far as I have been able to search. In Tennessee, North Carolina, Arkansas, and to less extent in Virginia and Texas, there were a considerable number of white Republicans; but in the other southern states in no election between 1868 and 1872 did the Republican vote equal the census figures for Negroes of voting age in 1870. The nearest approach to this was in South Carolina in 1870, when the Republican vote for governor was 85,000 and

the Negroes of voting age 85,400. In Mississippi the nearest approach was in the vote for Grant in 1872, when there were 82,000 votes against the census figures of 90,000. The machinery for getting out the Negro vote, and it was Republican machinery, was such as to permit the assumption that an unusually large percentage of the Negroes voted at the elections.

Undertaking to prove that Dent was not a carpet-bagger, he says:

Tho supported by the Democrats he was nominated by a faction of Republicans; moreover, he was a Missourian by birth, had family connections in Mississippi, and had, while living in California married the daughter of a prominent Mississippian. He was scarcely a typical carpet-bagger. That there should have been a split in the Republican party of the state so early is not a very good argument for the character of the leaders or of the measures they endorsed.

Of the high hopes of such men as Alcorn there can be no doubt; but scarcely less doubtful was the failure to realize their hopes. Alcorn himself favored Negro disfranchisement in 1890.

Referring to others, the expert continues:

Judges Peyton was a Republican, Tarbell a carpet-bagger, but Simrall is generally classed as a Democrat. He was chairman of the state legislative committee that reported in favor of rejecting the 14th Amendment. Riley classes him as a Democrat, as does Garner, tho Mayes calls him a moderate Republican, of the same class as Dent. Tarbell seems to have been a good judge. Garner is lukewarm in his appreciation, but Lamar said that "his decisions attest his extraordinary ability and industry." All commend his uprightness. Tarbell in 1887 called himself a conservative carpet-bagger, one who found himself in the minority. He said that the Republican party in Mississippi collapsed through its own weakness; having devised a constitution in which "there was much to praise and to be proud of, and little to condemn," the party gave birth to legislation of which "the criticism is, in a measure, reversed."[1] The judiciary was the best department of government under Reconstruction in Mississippi.

Taking up the question of ignorant Negro office holders, he says:

[1] *Mag. of Am. History,* XVIII, 424.

All that I find as to Evans, except Garner's statement of "it was alleged," is in an account of Reconstruction in De Soto County, written by I. C. Nichols in the publication of the Miss. Hist. Soc., XI, 307. He does not say that Evans could not read or write, but that his "bondsmen really administered his affairs and ran his office." At one time there was a charge of defalcation against him, but nothing specific, and Nichols concludes that nothing really was wrong. After this some changes were made in his bondsmen and "R. R. West was put in charge of the office and became Sheriff in all but name." West was, perhaps, one of the "honest, efficient, and capable assistants." Evans had been a slave. In Washington County there was also a negro sheriff, Winslow by name. Mr. Lynch does not mention him, but according to the testimony of H. B. Putnam, a carpet-bagger, Winslow was "nominally" sheriff, but his bondsmen ran the office; the sheriff, tho he could read and write, was "incompetent to take charge of his office," which was worth $10,000 or $15,000 a year legitimately, and, according to a white Democrat, about $100,000 by other means.[2] Scott of Issaquena, whom Mr. Lynch mentions, testified before the Boutwell committee, and so far as can be judged by that testimony he was a man of fair intelligence, tho according to the testimony of one of his own race, not endowed with rash courage.[3] The testimony of another carpet-bagger, with reference to Holmes County, is interesting, tho it does not show whether the sheriff-elect was white or black. He was probably not Sumner, as this man never served in the office. This carpet-bagger said that the sheriff of the county having died and this man elected to fill the vacancy the successor arranged to have the witness assist in making the bond. "Other gentlemen hesitated to go on the bond unless I would go there and be responsible for the running of the office." The man was prevented from taking office so nothing came of the arrangement. On the whole such first-hand material as I have been able to find does not uphold Garner entirely in his estimate of this class of officials, especially as to his footnote statement about their dishonesty; neither does it give the impression that they were worthy, as a whole, of the important positions they occupied. If Evans, as described by Rhodes, following Garner, was not typical, neither was Bruce

Mr. Lynch gives figures for 1875 and 1907 on financial matters

[2] Boutwell, *Report*, 1446, 1470.

[3] *Ibid.*, 608.

and on the basis of these claims that the profligacy of Reconstruction finances is not proven. The manifest unfairness of taking figures for 1907 may be passed over; but the necessary basis of comparison must be wider than this. Nor do his conclusions agree with any others that I have seen, nor, which is more important, with other statistics. Both those of the census or those given annually by Appletons' Annual Cyclopædia lead to other conclusions. Just as an illustration of what is said on the other side take this statement, which seems to be that of the land tax. This was 1 mill in 1869, 5 mills in 1870, 4 mills in 1871, 8½ mills in 1872, 12½ mills in 1873, 14 mills in 1874, 9¼ mills in 1875, 6½ mills in 1876, 6⅕ mills in 1877, 3½ mills in 1878. Another point that should be considered is that Mr. Lynch confines his figures to state finances; while it is for local finances that the Reconstruction government of Mississippi is most severely condemned.

Conceding a point in this case, he says:

Mr. Lynch is correct in saying that the Mississippi senators at the time of the state election of 1875 were Alcorn and Bruce. Pease had been succeeded by Bruce on March 4 of that year. Pease opposed Ames but he was no longer senator.

Mr. Lynch, in upholding the Reconstruction policy of Stevens and Sumner and what he calls their desire to delay restoration, seems to have overlooked the fact that the wisest of all the Civil War statesmen desired to get the states back into the Union before Congress should meet in December, 1865. Mr. Lynch is right in thinking that the 14th Amendment was essentially a correct measure, but so also does Mr. Rhodes. The 15th Amendment is quite a different proposition, however. Nor does it follow, because legislation of some sort might have been necessary to enforce the 14th Amendment or to take its place when the South refused to adopt it, that the Reconstruction Acts were the legitimate offspring of that necessity. That the negro soldiers helped to win the war is not proof that the war would have failed without them, or that the necessary price of their valor was suffrage for all the men of their race, the bulk of whom were not capable of understanding it; or that such suffrage was necessary to the preservation of the Union. Oratory, inside or outside of Congress, is not historical proof.

Directing attention to my idea of the undoing of Reconstruction he maintains:

Mr. Lynch's statement that the failure of Reconstruction was due to unwise judicial interpretation need not be considered. It is anachronistic and does not agree with the views now generally accepted by historical students. But what he says of the infidelity of Waite and Bradley can be refuted directly from the Supreme Court Reports. As to the appointment of these justices, there is no evidence that it was because of any specially strong nationalistic position on their part. Bradley, if chosen for any particular views, got the justiceship because of his attitude on legal tender; and the conditions under which Waite was appointed do not show up any such bias on his part. In U. S. *v.* Reese the court stood seven to two; and the dissentients were Clifford, a Democrat, and Hunt, appointed by Grant.

In U. S. *v.* Harris (the Ku Klux decision) Woods delivered the decision. Harlan alone dissented and only on the question of jurisdiction. The bench at that time held two judges appointed by Lincoln, two by Grant, two by Hayes, one by Garfield, and two by Arthur. The Civil Rights Cases decision was delivered by Bradley. Harlan was the only dissenter. These were the three important Reconstruction decisions during the term of Waite and Bradley. All of them were delivered after Reconstruction had failed. On the other hand, Bradley delivered the opinion in Ex parte Siebold, in which the federal election laws were upheld, and Field and Clifford were the only ones who disagreed with it.

In the first place, I frankly confess that what I have written and shall write in defense of the reconstructed governments at the South has been and will be of very little value if it were conceded that the acts accredited to the men to whom I have referred were of a low character. This is the very point upon which the public has been misinformed, misled and deceived. I do not hesitate to assert that the Southern Reconstructed Governments were the best governments those States ever had before or have ever had since, statements and allegations made by Mr. Rhodes and some other historical writers to the contrary notwithstanding. It is not claimed that they were perfect, but they were a decided improvement on those they succeeded and they were superior in every way to those which are representative of what Mr. Rhodes is pleased to term the restoration of

home rule. They were the first and only governments in that section that were based upon the consent of the governed. If Mr. Rhodes honestly believed that what he wrote in condemnation and denunciation of those governments was based upon authenticated facts, then the most charitable view that can be taken in his case is that he, like thousands of others, is simply an innocent victim of a gross deception.

In the second place, whether or not I am influenced by racial ties or partisan bias in what I have written and may hereafter write, I am willing to allow the readers to decide. I am sure that they have not failed to see from what I have thus far written, that the controlling purpose with me is to give actual facts, free from racial partiality or partisan bias. If some of the things I have written appear otherwise, it is due to the fact that the misrepresentations I am pointing out and correcting have been in the opposite direction. The idea that I have endeavored to keep in mind is, that what the readers and students of American history desire to know is the unbiased truth about the important events of the period in question and not the judgment and opinions of the person or persons by whom they are recorded.

In the third place, the statement that the value of what I have written is impaired because what is said about the important events of the period in question is based in the main upon my own knowledge and experience, must impress the intelligent reader as being strange and unusual. He discredits what I say too because I do not make reference to source materials. What this expert himself has to say is, like most studies of Reconstruction, based on ex-parte evidence which is in violation of all rules governing modern historical writing. No just judge would rely altogether on the testimony of one's enemies to determine the truth.

With reference to the period under consideration, the difference between what I have written and what has been written by Mr. Rhodes and some other historical writers is what the lawyers would call the difference between

primary and secondary evidence. The primary is always considered the best evidence, the secondary to be used only when the primary can not be obtained. And yet what I have written is not based wholly upon memory. It is only so with reference to distinguished persons and important events and tendencies, which are not likely to be inaccurate through the treachery of memory. The statistical information I have given is not from memory, but from the files of the official records which are accessible to the public. But it appears that Mr. Rhodes and some other historical writers used only such parts of the official records as answered the purpose they seemed to have in view, which evidently was to mislead and deceive the public. This is virtually admitted by Mr. Rhodes's expert, in stating that "the point Mr. Lynch makes about the defalcation of Hemingway is an interesting one, and one that is evidently carefully kept in the background by the local writers." Yes, they not only kept that point in the background, but all other points that were not in harmony with the purpose they seemed to have in mind, which was evidently one of deception and misrepresentation.

The reader will not fail to see that Mr. Rhodes's nameless expert passed over in silence a number of important points in my article. Some of those alluded to by him he frankly admitted to be right, as in the case of Treasurer Hemingway. In the case of Mr. Evans, the Negro sheriff of De Soto County, he relies upon a statement written by a Mr. Nichols of that county who was evidently a partisan, who makes an effort to paint Mr. Evans in as unfavorable a light as possible, and yet he fails to confirm the allegation that Mr. Evans could neither read nor write, but concludes his communication with the declaration "that nothing really was wrong." Judging from what is written by Mr. Rhodes's expert I conclude that Garner is the one from whom Mr. Rhodes obtained most of his misinformation. Yet in speaking of the Negro sheriffs in a general way Mr. Rhodes's expert was frank enough to say: "On the whole such first-hand material as I have been able to find does not

uphold Garner entirely in his estimate of this class of officials, especially as to his footnote statement about their dishonesty." This bears out the statement made by me that if Mr. Rhodes had desired to be fair and impartial he would have taken all the colored sheriffs into consideration and would have drawn an average, which would have shown that in point of intelligence, capacity and honesty they would have compared favorably with the whites.

The assertion made by me that the Republican party in the State of Mississippi included in its membership many of the best and most substantial white men in that State is disputed because the Republican vote in the State at the Presidential election of 1872 happened to be only a few thousand less than the number of Negroes in the State of voting age, as shown by the census of 1870. It is, therefore, assumed that very few if any white men voted the Republican ticket at that election. To ascertain the voting strength of a political party census figures cannot be relied upon with any degree of certainty, but since Mr. Rhodes's expert seems to think otherwise I am perfectly willing to accept them in this instance for what they may be worth. The number of Negroes of voting age in the State at that time, as shown by the census of 1870, was 88,850; whites 76,909, colored majority, 11,941, and yet the Republican majority in 1872 was 34,887. If the voting strength of the two parties were in proportion to the number of blacks and whites in the State, as this expert would have the public believe, and the percentage of blacks and whites who voted were about the same, which can be safely assumed, the Republican majority in that case could not have been more than 12,000, whereas it was nearly three times that number. Assuming that the Republican and Democratic vote combined comprised the whole number that voted at that election, the total number of votes polled was 129,463, which was 36,296 less than the number of voters in the State. Of the 36,296 that did not vote I estimate that at least 16,000 of them were white men. Subtract the 16,000 from the 76,909 white voters and it will be seen that the number

of white men that voted at that election was 60,909, and yet the Democratic vote was 47,288, which was 13,621 less than the number of white men that voted. My own estimate is that of the 82,175 Republican votes, 61,266 were cast by the blacks and 20,909 by the whites. Of the 47,288 Democratic votes, 40,000 were cast by the whites and 7,288 by the blacks.

From the above estimate it will be seen that more than one third of the white men that voted at that election voted the Republican ticket. This estimate is strengthened when the result of the election in the different counties is taken into consideration. The Republicans not only carried every county in which the Negro voters had a majority, but also a number of counties in which the whites were in the majority. The majority by which the State was carried by Alcorn in 1869 was about the same as that by which it was carried by Grant in 1872. Alcorn not only carried a number of white counties, but ten of them elected Republicans to the Legislature, two of them, Lawrence and Marion, elected each a Negro member. The ten counties were Pike, Lawrence, Marion, Jackson, Jasper, Clark, Lee, Leak, Lafayette and Attala. Judge Green C. Chandler, afterwards a judge of the Circuit Court and later U. S. District Attorney, was elected from Clark. Hon. H. W. Warren, who succeeded Judge Franklin as Speaker of the House, was elected from Leak, Judge Jason Niles and Hon. E. Boyd, both able and brilliant lawyers, were elected from Attala. Judge Niles was afterwards appointed a Judge of the Circuit Court and later served as a Republican member of Congress.

In the opinion of this expert Judge Dent, the Democratic candidate for Governor in 1869, was scarcely a typical carpet-bagger because he was born in Missouri and had family connections in Mississippi. Still if he were not a typical carpet-bagger, then we had none in the State, because the designation included all those that settled in the State after the war was over. Judge Dent was one of that number. But I may be able to give Mr. Rhodes what was believed to

be the principal reason that influenced the Democrats to support Judge Dent. He was President Grant's brother-in-law. Hence it was hoped and believed that in this case family ties would prove to be stronger than party ties and that the national administration would support Dent instead of Alcorn, the Ex-Confederate. But in this case they were mistaken. Grant had been elected as a Republican, and he could not be induced to throw the weight of his influence against his own party, even in a State election, merely to contribute to the realization of the personal ambition of his wife's brother. It is true that a few men who called themselves Republicans also supported Judge Dent, but the result of the election was conclusive evidence that the so-called split in the party was not at all serious.

Speaking of the three Supreme Court Judges, the expert admits that Peyton and Tarbell were Republicans, but Simrall, he claims, is generally classed as a Democrat. In support of this assertion attention is called to the fact, among others, that he was chairman of the State legislative committee that reported in favor of rejecting the 14th Amendment. But that was before the passage of the Reconstruction Acts and before the Republican party in the State was organized. Judge Simrall joined the Republican party in 1868 or 1869. What I asserted and now repeat is that he was a Republican when he was made a Justice of the State Supreme Court in 1870. Even if he, like thousands of others, rejoined the Democratic party, that would not disprove my assertion that he was a Republican while he was on the bench. But it appears that he was not one of those that rejoined the Democrats, but remained a Republican to the day of his death. In 1884, nine years after the *Redemption,* he canvassed the State for Blaine and Logan, Republican candidates for President and Vice-President. In 1890 the Democrats of Warren County in selecting suitable persons to represent them in the State Constitutional Convention to be held in the fall of that year were anxious to have the benefit of the knowledge, ability and experience of Judge Simrall. They took the liberty of placing his

name on their ticket to which it appears he made no objection, and in that way he was elected a delegate to that convention. But did that make him a Democrat? I am sure both Mr. Rhodes and his expert will allow Judge Simrall to answer that question for himself and that they will accept his answer as conclusive on that point. For his answer to that question they are respectfully referred to page 704 of the official journal of the Constitutional Convention of 1890. They will see that the members of the convention were politically classified. Each member, of course, furnished the information about his own party affiliations. It will be seen that Judge Simrall is classified as a "National Republican." Ex-Governor Alcorn was also a member of that convention, having been elected from Coahoma County in the same way. His political classification is that of a "Conservative." So it seems that neither Simrall nor Alcorn rejoined the Democratic party. Instead, therefore, of Republicans being obliged to utilize Democratic material in the selection of Judges, as erroneously stated by Mr. Rhodes, it seems that the Democrats were obliged to utilize Republican talent, experience and ability to assist them in framing a new constitution. I am sure the assertion can be safely made that Simrall and Alcorn were not among the "lovers of good government" who rejoiced "at the redemption of Mississippi" through the employment of means that Mr. Rhodes so much regretted.

"The judiciary," the expert asserts, "was the best department of government under Reconstruction in Mississippi," and yet the Judges were all appointed by the Governor, by and with the advice and consent of the Senate. It goes without saying that if the Governor's appointees were good, the appointing power was equally as good. The expert virtually admits that there was no justification for the declaration that "all lovers of good government must rejoice at the redemption of Mississippi," when he used the following language: "Mr. Lynch confines his figures to state finances; while it was for local finances that the Reconstruction government of Mississippi is most severely

condemned." In other words, there was nothing wrong with the State administration; it was the local county and municipal governments that were bad. And yet, a fair and impartial investigation will reveal the fact that there is no more foundation for this allegation than for those about the State government. It is admitted that during the early part of Reconstruction the local tax rate was high, the reasons for which are fully explained in *The Facts of Reconstruction.* Such an investigation would show that the charges of extravagance, recklessness and maladministration so generally made about the administration of county and municipal affairs were grossly exaggerated and nearly, if not all of them wholly untrue. In fact, the expert flatly contradicts himself on this point, because he admits that the evidence does not support the charge of dishonesty in the case of the Negro sheriffs, and yet the sheriff is the principal officer in the administration of the county government.

With reference to the financial affairs of the State the expert makes no effort to disprove a single statement I have made. He simply makes the broad statement that my conclusions do not agree with other statistics, and yet he fails to produce the statistics with which they do not agree. To illustrate his point he calls attention to the different *rates* of taxation covering a period of about ten years, which if true is of no importance in this connection because the same has no bearing upon the material point now under consideration. The tax *rate* is always determined by the amount of money needed to meet the obligations of the State, predicated upon the assessed value of taxable property. Changes in the tax rate, therefore, are liable to be of frequent occurrence. The material point at issue is the volume of money paid into the treasury and the disposition made of it. In this connection a slight amplification of the figures already given will not be inappropriate. In 1875, the last year of Republican rule and the year the State was *redeemed,* the total receipts from all sources amounted to $1,801,129.12. The disbursements, same year, were $1,430,192.83, or

$370,936.29 less than was received. In 1907 the receipts from all sources amounted to $3,391,127.15. The disbursements, same year, were $3,730,343.29 or $339,216.14 more than was received, and $2,300,150.46 more than was paid out in 1875. In fact, the financial condition of the State during several years was such that the Legislature was obliged to authorize the issuance of bonds upon which to borrow money to meet current demands, thus adding materially to the bonded debt of the State. Can any thing more inexcusable and indefensible than this be imagined? That any one of the Reconstructed governments could possibly have been guilty of such maladministration as this is inconceivable. And yet, this administration typifies what Mr. Rhodes is pleased to term the restoration of home rule at the South, for which all lovers of good government should rejoice.

The expert admits that I am right in what was said about Senators Alcorn and Bruce, but asserts that Senator Pease, Mr. Bruce's immediate predecessor, was opposed to Ames. This is another assertion that is not in harmony with the truth. Ames was a United States Senator when he was elected Governor. When he resigned the Senatorship to become Governor there remained about fourteen months of his term. There devolved, therefore, upon the Legislature that was elected in 1873, the same time Senator Ames was elected Governor, the duty of electing a Senator for the full term and also for the unexpired term. Bruce, an Ames man, was elected for the full term and Pease, also an Ames man, was elected for the unexpired term. If Pease had been opposed to Ames he could not have been elected to the Senate by that Legislature for that was unquestionably an Ames Legislature. It is true Pease was defeated for renomination for State Superintendent of Education by the Convention that nominated Ames, still he loyally supported the ticket and after the election he was looked upon as one of the friends and supporters of the Ames Administration. As such and for that reason he was elected as one of the administration Senators. I was a

member of Congress at that time and, therefore, had occasion frequently to confer with Senator Pease. If he were opposed to Ames, I am sure that both Mr. Rhodes and his expert will admit that I would have known it; and yet I do not hesitate to say that Senator Pease never did by word, act or deed cause me to entertain the slightest suspicion that he was not a loyal friend and supporter of the Ames Administration.

In regard to the decisions of the Supreme Court, the expert simply makes the declaration that the statement made by me that the failure of Reconstruction was due to unwise judicial interpretation need not be considered. In the first place, it is not true that I admitted that Reconstruction was a failure. On the contrary, those who will carefully read what I wrote will not fail to see that my contention is that in its important and essential particulars that policy was a grand and brilliant success and I instanced the ratification of the 14th and 15th Amendments, neither of which could have otherwise been ratified, as a vindication of the wisdom of that legislation even if nothing else had resulted from it. It is admitted that some of the friends and supporters of the Congressional plan of Reconstruction have been disappointed because those governments did not and could not stand the test of time. To this extent and for this reason some persons claim that the policy was a failure. I am not one of that number, the reasons for which the readers of the article referred to will see. But the inability of those governments to stand the test of time I accounted for under three heads, one of which was several unfortunate decisions rendered by the Supreme Court, the result, in my opinion, of two unwise appointments made by President Grant in the persons of Chief Justice Waite and Associate Justice Bradley. I do not assert that those two judges, or any others, for that matter, were appointed with reference to their attitude upon any public question, still I am satisfied that they were believed to be in accord with the other leaders and constitutional lawyers in the Republican party in their construction of the 14th Amendment.

The constitutional warrant for the Civil Rights Bill is the clause which declares that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." It was therefore held that any law or ordinance which provided for, recognized or sanctioned separate facilities for the two races in the exercise and enjoyment of the rights and privileges that are supposed to be common to all classes of persons, would be a violation of this provision of the 14th Amendment; and since Congress was authorized to enforce the Amendment, affirmative legislation for the enforcement of that provision was held to be thus warranted. This view was held by such able and brilliant constitutional lawyers as Edmunds and Conkling in the Senate, and Butler, George F. and E. Rockwood Hoar, Lyman Tremaine, Garfield and Wilson in the House. Senator Carpenter was the only Republican lawyer of any note that took a different view of the matter. While he believed the whole bill was unconstitutional, the section prohibiting race discrimination in the selection of jurors in State courts he believed to be especially obnoxious to the constitution. He declared that if that section could stand the test of a judicial decision all the others could and should. And yet the court, through a decision handed down by Mr. Justice Strong, affirmed the constitutionality of that section, but in a decision delivered by Mr. Justice Bradley the section providing for equal accommodations in hotels, inns and places of amusement was declared unconstitutional except in the District of Columbia and the territories. In several subsequent decisions, giving in the main the opinion of Chief Justice Waite, some of the most vital and important sections of the enforcement acts, especially those having for their object the protection of individual citizens, through federal machinery, when necessary, against domestic violence, were also declared to be unconstitutional and void.

I am of the opinion, shared in by many others, that if men of the type of Edmunds and Conkling had been appointed Supreme Court Justices instead of Waite and Bradley, the rulings of the court in the important cases referred

to might have been, and I think would have been, different. The unfortunate thing about those decisions is the wide scope of authority thus conceded to the States. In other words, they amount to a judicial recognition of the dangerous doctrine of States Rights—a doctrine which has been the source and the cause of most of our domestic troubles and misfortunes since those decisions were rendered. But for those unfortunate decisions our country would not be cursed and disgraced today by lynch law and other forms of lawlessness and racial proscription and discrimination. But for those unfortunate decisions lynchings could have been and I am sure would have been held to be an offense against the peace and dignity of the United States as well as the State in which the crime is committed. Consequently, the criminals could be, and in most cases would be, prosecuted in the United States courts, as was done in the case of many of the leaders of that secret criminal organization called the Ku Klux Klan. But this took place before the decisions referred to were rendered. The court has also decided that a State law providing separate accommodations for white and colored people on railroad trains, at least for a passenger whose journey begins and ends in the same state, is not an abridgment in violation of the constitution, provided the accommodations for the two races are exactly equal. This means that the validity even of those laws will not be affirmed whenever it can be shown that the accommodations are not equal, which can be very easily done. *Equal* separate accommodations are both a physical and a financial impossibility. It is simply impossible for a railroad company to provide the same accommodations for one colored passenger that it provides for one hundred whites. If, then, a colored passenger cannot occupy a seat or a sleeping berth in a car in which white persons may be passengers, this will not only be an abridgment, but in some cases, an absolute denial of such accommodations. The ultimate nullification of such unfair, unjust and unreasonable laws must necessarily follow.

In spite of the unfavorable rulings of the court, as above

noted, that tribunal, as at present constituted, has rendered several very important decisions which have given the friends of national supremacy and equal rights much hope and encouragement, the most important of which is the one declaring unconstitutional and void the ordinances providing for the segregation of the races in the purchase and occupation of property for residential purposes in several cities. The decision in this case was broad, comprehensive and far-reaching. This important, fair and equitable decision has given the colored American new hope and new inspiration. It has strengthened and intensified his loyalty and devotion to his country, his government, its flag and its institutions. It makes him feel that with all of its faults and shortcomings, our *form* of government is superior to, and better than that of any other, and that by a few more decisions along the line of this one, which I hope and believe may be safely anticipated, every justifiable cause of complaint on the part of the Negro will have been removed, because the evils resulting from the unfavorable and unfortunate rulings above noted will have been remedied and cured. Our type of democracy will then be what it now purports to be, pure and genuine. It will then be in truth and in fact the land of the free and the home of the brave. It will then be a typical representative of that form of democracy under which there can be no slave, no vassal and no peon, but every one will be an equal before the law in the exercise and enjoyment of life, liberty and property and in the exercise and enjoyment of such public rights and privileges as are, or should be, common to all citizens alike, without distinction or discrimination based upon differences of race, color, nationality or religion. These were the aims the framers of the Fourteenth Amendment had in view when that Amendment was drawn, and from present indications it seems to be clear that the highest court in the land will not allow the same to be defeated.

But the most significant point about the segregation decision grows out of the fact that the fair, reasonable, sound and equitable principles therein set forth and clearly

enunciated received the approbation and endorsement of a unanimous court consisting of nine Judges in which conflicting and antagonistic political views are presumed to be represented. This indicates that the day is not far off when the so-called race question will cease to be a political factor, and that all political parties will recognize merit and not race, fitness and not color, experience and not religion, ability and not nationality as the tests by which persons must be judged, not only in the administration of the government but in the industrial field as well. For the accomplishment of these desirable purposes, men of the type of James Ford Rhodes should give their support instead of allowing the same to be used in the interest of that small class of unpatriotic Americans who seek political distinction and official recognition at the expense of racial harmony and brotherly love.

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